

MOJAVE DESERT
AIR QUALITY MANAGEMENT DISTRICT

**TITLE V/ FEDERAL OPERATING PERMITS PROGRAM -
PERMITTING PROCEDURES GUIDANCE DOCUMENT**

**(updates, 12/05/2000 and 02/11/2002)
(original issue 3/11/96)**

This document summarizes various Title V Permit questions or issues answered and resolved to date. It lists various policy or procedure issues relative to the MDAQMD Title V Program and reflects USEPA Guidance Documents, "White Paper for Streamlined Development of Part 70 Permit Applications", July 10, 1995 and "White Paper Number 2 for Improved Implementation of The Part 70 Operating Permits Program", March 5, 1996, implementation within the District's Title V Program. MDAQMD will update this procedures document as USEPA Title V Guidance Continues To Develop.

MDAQMD Title V Federal Operating Permit Procedure Based On USEPA "White Paper" Document and "White Paper Number 2" Document :

Important USEPA Statement outlining the "spirit" of both "White Paper" Documents and this MDAQMD Guidance Document:

"In general, this program (i.e. Title V) was not intended by Congress to be the source of new substantive requirements. Rather, operating permits required by Title V are meant to accomplish the largely procedural task of identifying and recording existing substantive requirements applicable to regulated sources and to assure compliance with these existing requirements."

A. POTENTIAL TO EMIT (PTE) EMISSION ESTIMATES ARE NEEDED TO DETERMINE At LEAST TWO TITLE V and TITLE III RELATED ISSUES:

- a. Facility PTE emissions estimates will be needed to determine Major Facility Status if actual emissions for NO_x, VOC, PM₁₀ or other regulated air pollutant is less than the applicable major threshold level (25/100 tpy). Mobile source exhaust emissions are not counted for Title V purposes. Rule 219 permit exempt equipment criteria and HAP emissions must be included in the Title V Applicability Determination for the Facility (see Rule 1201 (M) Facility definition).

- b. Facility Hazardous Air Pollutants (HAPs) PTE emission estimates will be needed to determine Major Facility Status relative to the applicability threshold emission levels for HAPs. The HAPs Title V applicability threshold is 10 tpy (single HAP) or 25 tpy (two or more HAPs). HAP fugitives must be counted in the major source determination. Also, HAP fugitives must be included in the Federal Operating Permit (FOP) application if HAPs are regulated at the facility by a Federal Applicable Requirement (FAR) even though HAPs did not trigger Major Facility status. Mobile source exhaust emissions are not counted for Title V purposes. Rule 219 permit exempt equipment criteria and HAP emissions must be included in the Title V Applicability Determination for the Facility (see Rule 1201 (M) Facility definition).

B. POTENTIAL TO EMIT ISSUES:

1. If a facility agrees that it is a Major Facility under Title V, fugitive emissions need not be calculated for determining major source status unless listed by USEPA as an industry type required to document and report fugitive emissions (see item 2 below, (40 CFR 70.3(d))). However, fugitive emission quantification and reporting would be needed if there existed a need to demonstrate compliance with a Federal Applicable Requirement (FAR) or other MDAQMD SIP requirement.

Based on the July 10, 1995 USEPA "White Paper" Guidance Document, Potential to Emit (PTE) emission estimates are not required unless required by a FAR compliance determination or needed for a Title V Applicability Determination. Potential to Emit emission levels will not become federally enforceable limits on Part 70 permits unless otherwise required by a FAR.

2. Sources in the following categories must include fugitive emissions when calculating facility Potential To Emit emissions pursuant to 40 CFR 70.3(d).

- A. Coal Cleaning Plants (with thermal dryers)
- B. Kraft Pulp Mills
- C. Portland Cement Plants
- D. Primary Zinc Smelters
- E. Iron and Steel Mills
- F. Primary Aluminum Ore Reduction Plants
- G. Primary Copper Smelters
- H. Municipal Incinerators, capable of charging >250 tons of refuse per day
- I. Hydrofluoric, Sulfuric, or Nitric Acid Plants
- J. Petroleum Refineries
- K. Lime Plants
- L. Phosphate Rock Processing Plants
- M. Coke Oven Batteries
- N. Sulfur Recovery Plants
- O. Carbon Black Plants (furnace process)
- P. Primary Lead Smelters
- Q. Fuel Conversion Plants
- R. Sintering Plants
- S. Secondary Metal Processing Plants
- T. Chemical Process Plants (synthetic organic chemical manufacturing)

- U. Fossil-Fuel Boilers (or combination thereof), totalling more than 250×10^6 Btu/hr heat input
- V. Petroleum Storage and Transfer Units with a total storage capacity exceeding 300,000 barrels
- W. Taconite Ore Processing Plants
- X. Glass Fiber Processing Plants
- Y. Charcoal Production Plants
- Z. Fossil-Fuel Fired Steam Electric Plants of more than 250×10^6 Btu/hr heat input
- AA. All other stationary source categories regulated by a standard promulgated under § 111 or 112 of the Act, but only with respect to those air pollutants that are regulated for that category.

3. If a facility has two or more SIC categories, only the listed category (40 CFR 70.3(d)) should include non-hazardous air pollutant fugitive emissions in the Title V Permit Application. For example, a hypothetical limestone mine supporting a copper smelter (a listed source), the non-fugitive, but not the fugitive, emissions from the limestone mining operation would be included when calculating the PTE of the entire facility. USEPA considers a "support facility" as part of a source, even if the support facility operates under a different SIC code. A stationary source of emissions is considered a support facility when at least 50 percent of its output is dedicated to the source being evaluated. All the quantifiable fugitive emissions from a facility, or a portion of a facility, that belongs to a listed source category (item 3 above, 40 CFR 70.3(d)) should be included.

C. ACTUAL EMISSIONS REPORTING ISSUES:

1. Point source criteria pollutant "actual" emissions should be reported or properly cited in the Part 70 / Title V Federal Operating Permit Application. The most recent MDAQMD approved facility emission inventory data may be cited if previously submitted to and approved by the MDAQMD.
2. When reporting HAP Actual Emissions, report by CAS # and Name (for public review benefit). HAP actual emissions can be reported by properly citing previously submitted and MDAQMD approved toxics emissions inventory.
3. Based on the USEPA July 10, 1995 Guidance Document, unless regulated by a FAR, or the trigger of Major Facility status, HAP actual emissions do not need to be quantified but should be listed as an emittant from a specified process or operation (see "White Paper" section 2 of page 6 and 7 and above discussions).
4. The "Responsible Official" is required to certify compliance (or non-compliance) with any Federal Applicable Requirement, therefore, it is important that facility officials know actual emission rates for any pollutant for which a FAR applies at the facility. Example calculations should be submitted which demonstrate compliance with facility wide or equipment specific Federal Applicable Requirements. Examples for each type or category of equipment should be submitted but an individual calculation for each specific piece of equipment is not required.
5. When an emission estimate is not required, a general emissions description (a simple list of the significant pollutants or family of pollutants) will suffice. When available, properly cite the most recent MDAQMD approved Emissions Inventory.

D. FUGITIVE EMISSIONS, TITLE V APPLICABILITY, and REPORTING REQUIREMENTS:

USEPA letters dated February 23, 1995 and March 8, 1994 discuss several issues regarding the applicability and reporting of emissions from major stationary sources. Based on discussions with USEPA, CARB and information contained within USEPA letters and the referenced "White Paper" guidance document, facilities with actual emissions that exceed Major Source Title V Applicability need not quantify fugitive toxic emissions if the hazardous air pollutant (HAP) emissions did not trigger Title V Applicability and the HAP emissions at the subject facility are not regulated by NESHAPS, NSPS, SIP Rule or other Federal Applicable Requirements (FAR).

If a facility already concedes Title V major stationary source status, based on the USEPA "White Paper", the facility does not need to quantify and report the HAP emissions as long as the HAP emissions are not regulated at the facility by any FAR. The "White Paper" indicates that a facility process or equipment that emits significant quantities of any listed or regulated air pollutant should have the process identified and pollutants listed in the Part 70 Application (see section 2 of page 6 and 7 of White Paper). Again, a copy of, or proper citation of, the most recent MDAQMD approved criteria, toxics or HAPs emission inventory would meet these requirements. **Please see item # 11, page 6.**

1. Fugitive actual emissions can be reported by submitting a copy of, or properly citing, the most recent MDAQMD approved emissions inventory.
2. Routine "maintenance type emissions" not associated with a facility process (same SIC code) should not be reported. USEPA White Paper cited trivial sources and emissions should not be reported.
3. H₂S is not one of the section 112 (b) (ie. 189 listed HAPs) listed toxic substances. It is a section 112 (r) listed substance (ie. risk management plan).
4. Emissions from exempt equipment regulated by a FAR must be identified and included in the application for FOP's. Rule 219(B) lists the conditions by which specified equipment may be excluded from being listed on or obtaining a permit. Among these is the requirement that air contaminant emissions be less than prescribed threshold values (219(D)). Therefore, in order to determine exempt status, emission calculations would be required. Rule 219 permit exempt equipment criteria and HAP emissions would be necessary to make the Title V Applicability Determination (see Rule 1201 (M) Facility definition).
5. USEPA has stated that Title V and NSR are to be consistent in their implementation. Therefore, mobile source exhaust emissions are not to be included. **Facility haul road, drilling/blasting, etc. fugitive emissions are to be included with overall facility emissions if subject to a FAR, NSR Rule or PM₁₀ SIP Approval.**
6. Only process emissions and fugitives associated with plant equipment and operations need be considered, not maintenance or cleanup type emissions. USEPA White Paper cited trivial sources and emissions should not be reported. The intent of Title V/III is to list Federal Applicable Requirements and document compliance or establish compliance schedules.
7. If a facility has two or more SIC categories, only the listed category should include non-hazardous air pollutant fugitive emissions in the Title V Permit Application. For example, a limestone mine supporting a copper smelter, the non-fugitive, but not the fugitive, emissions from the limestone mining operation would be included when calculating the PTE of the entire facility. All the quantifiable fugitive emissions from a facility, or a portion of a facility, that belongs to a listed source category (copper smelter) should be included.

MDAQMD TITLE V PERMIT APPLICATION FORMS:

The current MDAQMD Title V Application Forms contain an abundance of facility design and operational data "information request spaces." The applications should be completed in enough detail to enable the MDAQMD to make a "Completeness Determination." In keeping with the "spirit" of the USEPA "White Paper" a Title V Permit Application can be deemed "substantially complete" if enough information is supplied to determine a facility's "Federal Applicable Requirements" (FAR) and compliance status with FARs. In addition, a compliance plan (if required), compliance certification, and signature of the "responsible official" must be submitted.

Districts will have 60 days to determine the "completeness" of each application received. This clock starts from the application received date by MDAQMD. For incomplete applications, the MDAQMD will specify the information missing or needed and a time frame for response. If the applicant fails to provide the information in the requested time frame, the applicant would forfeit the **Application Shield**. The Application Shield protects an operator from being cited for operating without a Title V Permit. To retain the Application Shield, the applicant must submit a complete application to MDAQMD by March 6, 1997. The District recommends that facility operators submit complete Title V applications early so as to allow time to work out any problems that may arise. Additionally, should MDAQMD request additional information after the Title V application has been deemed complete, the applicant must provide this information in the requested time frame, or again face forfeiting the Application Shield. MDAQMD worked with the facilities to meet the initial Title 5 submittal deadline of March 6, 1997. All initial Title 5 facilities complied with meeting this deadline.

Please see the attached Title V Permit Process flowcharts, Figures IV-1, IV-2, IV-3, IV-4, IV-5.

A. ADDITIONAL APPLICATION GUIDANCE:

1. Emission unit specific forms 1202-C through 1202-H are required to be submitted. Information available in MDAQMD permits or facility files such as make, model and serial #, horsepower, size, etc. does not need to be listed if the subject equipment or process is adequately described and the proper files are referenced (see section 2, page 7, of "White Paper" Guidance Document). It is the responsibility of the Facility to make sure that information referenced in MDAQMD files is actually in the files. This may require an inspection by the facility of the files to be referenced. Remember that the information (which is not classified confidential) must be readily accessible by the public.
2. The "Responsible Official" is required to certify compliance (or non-compliance) with any Federal Applicable Requirement, therefore, it is important that facility officials know actual emission rates for any pollutant for which a FAR applies at the facility. Example calculations should be submitted which demonstrate compliance with facility wide or equipment specific Federal Applicable Requirements. Examples for each type or category of equipment should be submitted but an individual calculation for each specific piece of equipment is not required. Compliance Certifications must stipulate which FARs the facility is or is not subject to. The District may request additional information to clarify any issues which remain unclear.
3. 100 % compliance is not implied when submitting compliance certifications. Compliance certifications are required of all facilities designating the compliance status with respect to applicable FAR. The Compliance Plan and Monitoring Report Forms are required when a facility needs to outline the non-compliance conditions and steps to be followed to bring the facility back into compliance. Variances should be obtained with necessary steps outlined which, if followed, would lead to reestablishing compliance. This process will

not prevent USEPA, MDAQMD, or the public from initiating compliance/enforcement actions deemed necessary as outlined in 40 CFR 70 (see 70.5 & 70.6).

4. MDAQMD permit conditions which have their basis in any MDAQMD Rule (or prior district rule) contained in the SIP or other Federal Applicable Requirements such as National Emission Standards for Hazardous Air Pollutants (NESHAPS), New Source Performance Standards (NSPS), etc. must be included in the Federal Operating Permit. If facility permit conditions "have changed over time" the older requirements would have been replaced by newer requirements as allowed by MDAQMD Rule or USEPA action, therefore the properly approved current version would be incorporated into the FOP.
5. Requirements that are not considered Federally Enforceable may be identified by asterisk and footnote or within the body of the cover letter accompanying the Title V Permit Application.
6. According to USEPA Guidance, when two or more Federal Applicable Requirements apply the most recent and more stringent rule will apply. This is probably the case within MDAQMD, however, if the most recent rule is less stringent, then USEPA is requesting that Districts "hold off" on the issuance of the Title V Permit until this issue is resolved and/or the subject rule is adopted into the SIP. Districts are not required to count such a facility in the required 1/3 of Title V Permits issued per year.
7. MDAQMD does not have USEPA delegation of the PSD/NSR Permit Program. Therefore, include copies of any facility PSD Permits with Title V Applications submitted.
8. Copies of facility MDAQMD permits to operate may be included as an appendix.
9. Applicable Requirements are required to be listed on the Compliance Plan (Form 1202-J) and Compliance Plan Certification (Form 1202-K) forms. In addition, Applicable Requirements applicable only to specific processes or equipment must be adequately described in this listing.
10. It is acceptable to list Federal Applicable Requirements by source category (e.g. boilers greater than 2×10^6 Btu/hr) and attach a list of permit or application numbers identifying the emission units that are subject to those requirements. If un-permitted equipment is subject to Federal Applicable Requirements they must be listed and described in a clear and straightforward manner.
11. Submitting a Facility Summary of the actual emissions from the most recent MDAQMD approved facility emission inventory is optional. If the Facility does not choose to submit a copy of the emission inventory total facility summary the MDAQMD will print out a Facility Summary and include it with the Title V Application when submitted. Facility Total Point Source criteria and HAP pollutant "actual" emissions should be reported in the Part 70 / Title V Federal Operating Permit Application by submitting the summary pages from the most recent facility emission inventory approved by the MDAQMD by attaching the pages to Form # 1202-B2. The most recent MDAQMD approved facility emissions inventory would be cited for more specific details.

When reporting HAP Actual Emissions, report by CAS # and Name (for public review benefit). Based on the USEPA July 10, 1995 Guidance Document, unless regulated by a FAR, or the trigger of Major Facility status, HAP actual emissions do not need to be quantified but should be listed as an emittant from a specified process or operation (see "White Paper" section 2 of page 6 and 7 and above discussions). When an emission estimate is not required, a general emissions description (a simple list of the significant pollutants or family of pollutants) will suffice.

12. Inactive "non operating" permitted emission units should be included in the Title V Application with a note that the emission unit has not been operated (provide dates) and that recent emissions data are not available. Actual emissions would not be reported for these emission units.

Keep in mind that the Potential to Emit for this equipment would be considered in any Title V Applicability Determination but would not otherwise require any emissions reporting once a Facility is considered subject to Title V Permit requirements.

13. Temporary contractor equipment associated with (supporting) the facility that requires a Title V Permit must be identified in the Title V Permit Application for that facility. Unfortunately, there is no current USEPA Guidance that would allow exclusion of temporary contractor equipment. See letter from John S. Seitz to Lisa J. Thorvig, Division Manager, Minnesota Pollution Control Agency, dated November 16, 1994.
14. Leaving blank spaces in the MDAQMD Title V Application Forms is not a problem when the information is adequately stated or contained elsewhere within the application or is otherwise not needed to define or show compliance with a FAR. In addition, blank spaces that are not needed may be deleted as long as the same order is preserved.
15. Title V Permit proposed permit conditions may be included and identified as such on the Compliance Plan (Form 1202-J) and/or Compliance Certification (Form 1202-K) forms or as an attachment.

B. APPLICATION COMPLETENESS DETERMINATION:

An application is incomplete when it does not contain enough information to enable the permit to be processed by the District. To be determined "Complete" a Title V / Federal Operating Permit Application must contain information sufficient to evaluate the emissions, applicable requirements, and compliance status with applicable requirements at the Facility, including but not limited to:

1. Current applicable Rule 312 Federal Operating Permit Fee Assessments must have been paid.
2. Information identifying the facility. Description of processes and products by Standard Industrial Classification Code (SIC). Identification and description of all Permit Units and other points of emissions within the Facility.
3. The amount and type of emissions which render the Facility a Major Facility and the amount and type of emissions for any other Regulated Air Pollutant. Provide in such terms as to establish FARs and compliance with FARs.
4. The amount and type of emissions, in tons per year and in such terms as are necessary to establish compliance with an applicable standard reference test method of any Regulated Air Pollutant.
5. Identification and description of all air pollution control equipment and monitoring devices within the Facility.
6. Information regarding fuels, fuel use, raw materials, process weight, production rates and operating schedules to the extent such information is used to determine or regulate emissions.

7. Any limitations on Facility operations, or common practices within the facility which affect the emissions of Air Pollutants.
8. Any other information specifically required by a Federal Applicable Requirement.
9. Any calculations upon which emissions and compliance determinations are based.
10. Fugitive emissions which are subject to FARs or resulted in an applicability determination shall be included in the application in the same manner as any other emissions. Proper citation in the Title V Application is satisfactory if an emissions inventory has been previously submitted to and approved by the MDAQMD.
11. Citation and description of all Federal Applicable Requirements including a description or reference to test methods used to determine compliance.
12. Any other specific information necessary to implement and enforce other Federal Applicable Requirements or to determine if a requirement is a Federal Applicable Requirement.
13. An explanation of any proposed exemptions from Federal Applicable Requirements.
14. Any additional information determined to be necessary to define alternative operating scenarios or to define permit terms and conditions necessary to implement operational flexibility under District Rule 1203(E).
15. A Compliance Plan including schedules of compliance with FARs which the facility is currently subject to and FARs which may take effect during the term of the Title V Permit.
16. Certification of Compliance by a responsible official of the truth, accuracy and completeness of forms and information submitted.
17. A list of all activities claimed to be insignificant pursuant to District Rule 219.
18. For portable sources identify all locations of potential operation.

C. FEDERAL APPLICABLE REQUIREMENTS:

The term "federal applicable requirement" are "federally-enforceable requirements" under Title V and include only requirements that are enforceable by EPA and citizens under the federal Clean Air Act. Please see attached "Applicable Federal Requirements Worksheet" document. These requirements include:

- a. New Source Review (NSR) requirements in the State Implementation Plan.
- b. Prevention of Significant Deterioration (PSD) requirements.
- c. New Source Performance Standards (NSPS).
- d. National Ambient Air Quality Standards (NAAQS) for sources permitted pursuant to Section 504(e) of the federal Clean Air Act (CAA).

- e. National Emission Standards for Hazardous Air Pollutants (NESHAPS).
- f. Maximum Achievable Control Technology (MACT) and Generally Available Control Technology Standards (GACT).
- g. A requirement to register a risk management plan under Section 112(r)(7) of the federal CAA.
- h. Solid Waste Incineration requirements (Section 129 of the federal CAA).
- i. Consumer and Commercial Product requirements (Section 183 of the federal CAA).
- j. Tank Vessel requirements (Section 183 of the federal CAA).
- k. District rules that are approved into the state implementation plan (SIP).
- l. Federal Implementation Plan (FIP) Requirements, as required.
- m. Enhanced Monitoring and Compliance Certification requirements (Section 114(a)(3) of the federal CAA).
- n. Acid Deposition Control requirements (40 CFR Parts 72,73, 75, 76, 77, 78).
- o. Stratospheric Ozone Protection requirements (40 CFR Part 82).
- p. Monitoring and analysis requirements (Section 504(b) of the federal CAA).

D. INSIGNIFICANT ACTIVITIES:

Facilities should use the current exemptions listed in Rule 219 - "Equipment Not Requiring A Permit" to specify insignificant activities in the application forms. The District will require that insignificant activities be listed in the applications by category, however, other information such as emissions data will not be required unless the District has reason to request further information. Remember that Rule 219 permit exempt equipment criteria and HAP emissions must be included in the Title V Applicability Determination for the Facility (see Rule 1201 (M) Facility definition).

New and modified stationary sources with net increases in emissions equal to or exceeding "significant" levels (25 tons per year) in Regulation XIII are subject to new source review and may not be exempted.

E. CERTIFICATIONS and MONITORING REPORTS:

Facilities should use Certification and Monitoring Report Forms #s, 1202-J1, 1202-J2 and 1202-K, to submit Certifications and any required Monitoring and Compliance Reports. All facilities issued Title V Federal Operating Permits, the responsible officials must complete, certify and submit monitoring reports every six months. The reports must identify deviations from permit requirements, probable causes of deviations, and preventative or corrective actions taken. The reports must cover upset conditions, whether or not they were previously reported to the District.

F. COMPLIANCE PLANS:

For noncomplying sources with compliance schedules, the responsible officials must complete, certify, and submit semi-annual progress reports. Form 1202-H "Compliance Plan" must be used for application and reporting purposes.

G. PROVISIONS for "OPERATIONAL FLEXIBILITY":

The provisions for operational flexibility for federally-enforceable permit conditions are contained in Rule 1203(E). These provisions are intended to meet the mandatory operational flexibility requirements of §502(b)(10) of Title V and §70.4(b)(12) of Part 70.

To qualify under the new provisions, the operational change may not constitute a "modification" as defined under any provision of Title I of the Federal Clean Air Act (42 U.S.C. §7401-§7515) or exceed the emissions currently allowed under the permit. Title I modifications include a modification that is major under federal NSR (e.g. increase of VOC/NOx emissions above 40/25 TPY "de minimis" level), a modification that is major under PSD resulting in a "significant" net emissions increase ("significant" as determined by the U.S. EPA), or a modification at a major HAPs source resulting in a "de minimis" increase of HAPs ("de minimis" as determined by the U.S. EPA). Rules that remain in effect include any current or future MDAQMD or USEPA rule for NSR, PSD, HAPs, NESHAPs, or New Source Performance Standards (NSPS). Any operational change that requires an authority to construct will still need to go through that process. In addition, the operational change must not result in any exceedance of permitted emission limits. Two types of operational flexibility will be allowed.

1. Alternate Operating Scenarios

The first type is for the use of alternative operating scenarios that are allowed for in the permit to operate. The owner/operator of the stationary source has the burden of identifying and applying for the scenarios in the FOP application. The District must make a determination that the scenarios will not violate any applicable District, state, or federal requirement, and then allow for the scenarios in the issued FOP. This type of operational flexibility is already being provided for in the current permit program through the District's authority to construct process. Therefore, there will essentially be no change in the District's current permit to operate program, other than the provisions incorporated into Regulation XII to explicitly accommodate such operational flexibility and adding a FOP requirement for keeping a contemporaneous log to record changes in operating scenarios.

2. Emissions Trading Under a Facility Emissions Limit

The second type of "Operational Flexibility" is to allow for changes in operation of a facility that are not anticipated "before hand" in the FOP. This type of operational flexibility is to allow industry the ability to make certain expeditious changes in their operations. For example, operational flexibility may be desirable to meet changing market demands quickly without waiting for a change to the FOP. A change under this provision must meet several qualifying conditions. The change must not result in an exceedance of any applicable emission limit, emission standard, or performance standard. Procedurally, the owner/operator

must give the District at least a 30-day written notice before making the change. The owner/operator must also provide the District certain information about the change, and must not make the change if a written denial from the District is received during the 30-day notice period. The change must not be a "modification" as defined in Rule 1203(E) or in Title I of the CAA, and must not violate any applicable federal requirement. The provisions do not allow the contravening of permit conditions for District-only or state requirements.

SUMMARY:

In summary, MDAQMD intends to incorporate the flexibility indicated in the USEPA Guidance Documents "White Paper for Streamlined Development of Part 70 Permit Applications", July 10, 1995 and the "White Paper Number 2 for Improved Implementation of The Part 70 Operating Permits Program", March 5, 1996. In addition, MDAQMD plans to revise and update the MDAQMD Title V Program Application Forms after the initial implementation of the program based on experience gained and any Part 70 Amendments brought about by USEPA. As a result, Part 70 / Title V Permit Applications adequately referencing readily available information contained within MDAQMD permits or stated elsewhere within the Part 70 Permit Applications will be acceptable.

Please contact William H. Weese, Air Quality Engineer / Title V Permitting Coordinator at (760) 245-1661 (extension 1846) should you have additional questions or need further clarification.

Mailing address: MDAQMD, 14306 Park Avenue, Victorville, CA 92392

ATTACHMENTS

MDAQMD Title V Program

EXAMPLE

1. Applicability Determination:

The Federal Operating Permits Program (Title V), including MDAQMD Rules 221, 312, and Regulation XII, applies to those facilities located within the MDAQMD "Severe-17" ozone non-attainment area that emit or have the potential to emit twenty-five (25) tpy or more of NO_x or VOC or 100 tpy of any other regulated air pollutant. Title V applies to other facilities located outside the "Severe-17" area that emit or have the potential to emit one-hundred (100) tpy or more of NO_x, VOC or any other regulated air pollutant. In addition, Title V applies to facilities that emit or have the potential to emit ten (10) tons per year or more of any Hazardous Air Pollutant or twenty-five (25) tons per year or more of any combination of Hazardous Air Pollutants or such lesser quantity as the USEPA may establish by rule.

Title V requires MDAQMD to consider a facility's "Potential to Emit" (PTE) (and actual emissions that exceed the Title V applicability threshold) when deciding Title V applicability to the facility. The MDAQMD must look at a facility's permits to determine what specific "federally enforceable" permit conditions are listed that would limit emissions from the facility such as: 1. production rate limits; 2. raw material use limits; 3. hourly, daily, or weekly operational limits; 4. materials specifications; 5. pollution control equipment requirements; and 6. other industry specific type conditions. These conditions and operating parameters are generally Federally Enforceable if either the underlying Rules and Regulations are contained in the State Implementation Plan and/or the condition(s) involved have undergone public review and comment similar to that required under New Source Review.

As an example, facility "XYZ", located within the MDAQMD "Severe 17" ozone non-attainment area, has current MDAQMD Permits to Operate that limit facility maximum VOC emissions to 250 lb/day total organic solvents/nonreactive (to avoid Regulation XIII "NSR") and 39.6 lb/day photochemically reactive organic solvents (to comply with Rule 442).

Facility "XYZ" would not be legally prevented from emitting above the Title V applicability threshold of 25 tpy VOC (ie, 250 lb/day x 365 day/year x 1 ton/2000 lb = 45.6 tpy). Facility "XYZ" operating permits limit daily emissions and not total allowable yearly emissions. This is because facility "XYZ" production rates, operating schedules, or other emission limiting plant parameters are not regulated by the facility's permits to operate. In addition, the MDAQMD "Engineering Review" for facility "XYZ" used applicant proposed operational and design information to decide the approvability of the authority to construct issued for the initial construction of this facility. Also, information submitted by the facility to MDAQMD for the 1993 Emissions Inventory listed current actual emissions at 2.1 tpy VOC and "potential maximum emissions" at 36.6 tpy VOC. Since PTE must be considered when deciding Title V applicability to a facility, in this case the MDAQMD considers that facility "XYZ" has the "Potential to Emit" VOC which exceeds the 25 tpy VOC Applicability Threshold for the MDAQMD Title V Program.

2. Options available to facility "XYZ":

OPTION 1. "Obtain Title V Permit."

- positive: For existing facilities approved under previously applicable MDAQMD Rules and Regulations (with 250 lb/day ; 45.6 tpy ; NO_x/VOC emission limits to avoid Regulation XIII) obtaining a Title V permit would maintain existing "current" MDAQMD Permit to Operate "allowable" emission limitations. These emissions would be available for future potential use without having to "offset" current allowable emissions in the future.
- negative: Title V permits requires application submittal, public notice and potential comment. Potential for additional USEPA oversight. Record keeping/reporting and payment of Rule 312 fees also required.

OPTION 2. "Rule 221 Federally Enforceable Conditions on MDAQMD Permit to Operate."

- positive: A Title V Permit is not required resulting in the potential for less direct USEPA oversight and avoidance of Rule 312 fees.
- negative: Requires modification to current MDAQMD permits to provide "Federally Enforceable Limits on facility Potential to Emit." Subsequent changes to the facility or operational modes may require emission offsets pursuant to Regulation XIII. Public notice and potential comment, record keeping and reporting would be required.

OPTION 3. Implementation of "Rule 222 Record Keeping and Reporting Requirements - Limiting Actual Emissions to Less Than 12.5 tpy for NO_x/VOC and 50 tpy PM₁₀."

- positive: A Title V Permit would not be required. Rule 221 emission limiting "Federally Enforceable Conditions" on MDAQMD Operating Permit are not required. Rule 312 fees not required. Offset of emissions up to current MDAQMD Permit to Operate "NO_x and VOC Emission Limits" not required.
- negative: Rule 222 Record Keeping and Reporting would be required. Emissions growth above 50% of the Title V Applicability Threshold (12.5 tpy NO_x/VOC in "Severe-17" ozone non-attainment area) would require the immediate application of either Rule 221 Federally Enforceable Conditions or Title V Permits.

FACILITY "XYZ" AVAILABLE OPTIONS DISCUSSION:

OPTION 1.

Facility "XYZ" has the option of obtaining Title V "Federal Operating Permits. The positive and negative considerations discussed above should be evaluated.

OPTION 2.

If Facility "XYZ" decides to place "federally enforceable voluntary emission limitations" (per Rule 221) on their facility permits (to avoid Title V) and at some later date decides to "go back" to previously allowed emission limitations (levels) then the facility may be required to provide full offsets back to zero (required by MDAQMD current New Source Review Rule and the "to be adopted version" currently being modified as required by USEPA). Full offsets are required for emissions not previously completely offset (facility "XYZ" situation). This is a major consideration which needs to be evaluated if future growth in actual emissions at or above currently permitted levels is anticipated or needed.

OPTION 3.

If Facility "XYZ" complies with Rule 222 "actual emission limitations" supported by record keeping and reporting then the facility would be allowed to maintain current MDAQMD Permit to Operate emission limitations. These emissions would be available for future facility growth up to the current MDAQMD Permit to Operate allowable levels. Once growth in actual emissions exceeded 50 % of the Title V Major Facility threshold (12.5 tpy NO_x/VOC and 50 tpy PM₁₀ in "Severe-17" ozone non-attainment area) the facility would be required to immediately obtain the Title V Permit or have Rule 221 "Federally Enforceable Voluntary Emission Limitations" placed on the MDAQMD Permits to Operate.

3. Example Case: "Facility XYZ Application for Title V Permit"

In this example case "Facility XYZ" has decided to apply for and obtain a MDAQMD Federal Operating Permit. The company has decided that future growth potential for their facility is worth the extra effort in obtaining a Title V Permit.

Facility XYZ has determined that the only Federally Applicable Requirement which they are subject to is the previously discussed MDAQMD Rule 442 photochemically reactive organic solvent use limit of 39.6 lb/day. This limit equals 7.2 tpy without considering any operating schedule limits (none exist on the MDAQMD Permit to Operate). A total non-photochemically reactive organic solvent emission limit of 250 lb/day and 45.6 tpy (to avoid Reg XIII NSR) would also apply because the corresponding Rule 442 limit would have been 600 lb/day for this facility.

MDAQMD Rule 442 (02/20/79 current version) has been adopted into the State Implementation Plan (SIP). It is contained in 40 CFR 52.220(c)(51)(xii)(B) - 06/09/82 47 FR 25013.

The attached standard "shell federal operating permit" outline would be used with the appropriate emission limits inserted. The standard operational conditions and compliance conditions in the shell federal operating permit would apply. Applicable MDAQMD Permit to Operate equipment specifications and conditions would be placed on the Federal Operating Permit. Facilities are encouraged to submit proposed draft FOP document language with the applications submitted.

Also, attached is the draft document "MDAQMD Applicable State Implementation Plan" listing the SIP status of the various Rules and Regulations which have been in place since the formation of the original San Bernardino County APCD and the present Mojave Desert Air Quality Management District.

Please see the attached CARB document "Title V Permit Process Flowcharts", Figures IV-1, IV-2, IV-3, IV-4, IV-5.

Please see attached "Applicable Federal Requirements Worksheet" CARB document.

MDAQMD TITLE V PROGRAM
FEDERAL OPERATING PERMIT "SHELL/OUTLINE"

MOJAVE DESERT
AIR QUALITY MANAGEMENT DISTRICT

Federal Operating Permit Number **PERMIT #**

For **FACILITY NAME**

Issued Pursuant to MDAQMD Regulation XII
on **DATE OF ISSUANCE**.

This Federal Operating Permit Expires
on **EXPIRATION DATE**.

15428 CIVIC DRIVE, VICTORVILLE, CALIFORNIA 92392
PHONE (760) 245-1661
FAX (760) 245-2699

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PART I INTRODUCTORY INFORMATION

A. FACILITY IDENTIFYING INFORMATION:

Company Name: **COMPANY NAME**
Mailing Address: **MAILING ADDRESS LINE 1**
MAILING ADDRESS LINE 2
MAILING ADDRESS LINE 3

[Include the following if they are different from above. If not indicate "same as above"]

Facility Name: **FACILITY NAME**
Facility Address: **FACILITY ADDRESS LINE 1**
FACILITY ADDRESS LINE 2
FACILITY ADDRESS LINE 3

MDAQMD Facility #: **FACILITY #**

Owner's Name: **OWNER'S NAME**

Agent's Name: **AGENT'S NAME** *[If no agent is indicated on the application state "N/A"]*

Contact Person: **CONTACT PERSON'S NAME** *[Contact person should be at the Facility Location or have easy access thereto.]*

B. DESCRIPTION OF FACILITY:

[Include a brief description of the Facility including the four digit SIC code and type of work the facility performs. A generic description of the type of emission units and air pollution control equipment can be included. Maps, layouts, and process descriptions do not need to be included.]

C. EXPIRATION DATE:

This permit expires on **EXPIRATION DATE**. *[This will usually be 5 years from the date of issuance. Modifications will not change the expiration date.]*

PART II

APPLICABLE REQUIREMENTS AND EMISSIONS LIMITATIONS

A. APPLICABLE REQUIREMENTS AND EMISSIONS LIMITATIONS:

[List each piece of equipment and fugitive emission which has an applicable requirement. For each piece of equipment you will need to:

- 1. Identify the Applicable Requirement.*
- 2. Identify any Exceptions to the Applicable Requirement which apply to the equipment.*
- 3. Enumerate specific emissions and/or operational limitations for the equipment which implement the Applicable Requirement. Note: These are the general emissions limiting and operational permit conditions.*

Each piece of equipment should be listed either separately or in groups which have the same requirements and limitations. A suggested format is as follows:

EQUIPMENT (OR FUGITIVE EMISSION) NAME/DESIGNATION/IDENTIFYING INFORMATION:

- 1. EMISSION OR OPERATIONAL LIMITATION/CONDITION (Citation of Applicable Requirement which mandates this condition.)*
- 2. EMISSION OR OPERATIONAL LIMITATION/CONDITION (Citation of Applicable Requirement which mandates this condition.)*

Continue in this manner until all applicable requirements have been covered by a condition.

B. APPLICABLE REQUIREMENTS WHICH ARE NOT APPLICABLE TO THIS FACILITY:

[Please list Applicable Requirements for which the Facility is exempt or which could, but do not, apply. Briefly explain why the exemption applies or why the Facility is not covered under the particular requirement. This only needs to be done for Applicable Requirements which the Facility would like to have included under the Permit Shield.]

PART III

GENERAL MONITORING RECORDKEEPING AND REPORTING REQUIREMENTS

A. STANDARD MONITORING RECORDKEEPING AND REPORTING REQUIREMENTS:

1. Any records required to be generated and/or kept by any portion of this permit shall be retained by the Facility for at least five (5) years from the date the record was created. (40 CFR 70.6(a)(3)(ii)(B); MDAQMD Rule 1203(D)(1)(d)(ii)).
2. Any reports generated from monitoring required by any portion of this permit shall be submitted by the Facility to the MDAQMD at least every six (6) months unless another time period is specified in the specific provision requiring monitoring. (40 CFR 70.6(a)(3)(iii)(A); MDAQMD Rule 1203(D)(1)(e)(i)).

B. EQUIPMENT SPECIFIC MONITORING, RECORDKEEPING AND REPORTING REQUIREMENTS:

[Please provide specific conditions for each piece of equipment in Part II which requires monitoring, recordkeeping and/or reporting requirements. Please see MDAQMD Rule 1203(D)(1)(c-e) for help on the level of detail required. Please also cite the appropriate Applicable Requirement which requires the monitoring, recordkeeping, and/or reporting.]

PART IV STANDARD FEDERAL OPERATING PERMIT CONDITIONS

A. STANDARD CONDITIONS:

1. If any portion of this Federal Operating Permit is found to be invalid by the final decision of a court of competent jurisdiction the remaining portion(s) of this Federal Operating Permit shall not be affected thereby. (40 CFR 70.6(a)(5); MDAQMD Rule 1203(D)(1)(f)(i)).
2. The holder of this Federal Operating Permit shall comply with all condition(s) contained herein. Noncompliance with any condition(s) contained herein constitutes a violation of the Federal Clean Air Act and of MDAQMD Regulation XII and is grounds for enforcement action; termination, revocation and reissuance, or modification of this Federal Operating Permit; and/or grounds for denial of a renewal of this Federal Operating Permit. (40 CFR 70.6(a)(6)(i); MDAQMD Rule 1203(D)(1)(f)(ii)).
3. It shall not be a defence in an enforcement action brought for violation(s) of condition(s) contained in this Federal Operating Permit that it would have been necessary to halt or reduce activity to maintain compliance with those condition(s). (40 CFR 70.6(a)(6)(ii); MDAQMD Rule 1203(D)(1)(f)(iii)).
4. This Federal Operating Permit may be modified, revoked, reopened or terminated for cause. (40 CFR 70.6(a)(6)(iii); MDAQMD Rule 1203(D)(1)(f)(iv)).
5. The filing of an application for modification; a request for revocation and reissuance; a request for termination; notifications of planned changes; or anticipated noncompliance with condition(s) does not stay the operation of any condition contained in this Federal Operating Permit (40 CFR 70.6(a)(6)(iii); MDAQMD Rule 1203(D)(1)(f)(v)).
6. The issuance of this Federal Operating Permit does not convey any property rights of any sort nor does it convey any exclusive privilege. (40 CFR 70.6(a)(6)(iv); MDAQMD Rule 1203(D)(1)(f)(vi)).

7. The holder of this Federal Operating Permit shall furnish to the MDAQMD, within a reasonable time as specified by the MDAQMD, any information that the MDAQMD may request in writing. (40 CFR 70.6(a)(6)(v); MDAQMD Rule 1203(D)(1)(f)(vii)).
8. The holder of this Federal Operating Permit shall furnish to the MDAQMD, upon request by the MDAQMD, copies of any records required to be kept pursuant to condition(s) of this Federal Operating Permit. (40 CFR 70.6(a)(6)(v); MDAQMD Rule 1203(D)(1)(f)(viii)).
9. The holder of this Federal Operating Permit shall pay all applicable fees as specified in MDAQMD Regulation III, especially those fees related to permits as set forth in MDAQMD Rules 301 and 312. (40 CFR 70.6(a)(7); MDAQMD Rule 1203(D)(1)(f)(ix)).
10. The holder of this Federal Operating Permit shall not be required to revise this permit for approved economic incentives, marketable permits, emissions trading or other similar programs provided for in this permit. (40 CFR 70.6(a)(8); MDAQMD Rule 1203(D)(1)(f)(x)).
11. Compliance with condition(s) contained in this Federal Operating Permit shall be deemed compliance with the Applicable Requirement underlying such condition(s) so long as the Applicable Requirement is specifically identified else where in this permit. This conditions hereby incorporates the "Permit Shield" set forth in MDAQMD Rule 1203(G) as a portion of this Federal Operating Permit. (40 CFR 70.6(f)(1); MDAQMD Rule 1203(G)(1))
12. The holder of this Federal Operating Permit shall be deemed in compliance with all Applicable Requirements which are set forth in Part II, Subpart B of this Federal Operating Permit. (40 CFR 70.6(f)(1)(ii); MDAQMD Rule 1203(G)(2)).
13. The Permit Shield set forth above in conditions 11 and 12 of Part IV shall not be construed to limit the emergency powers of USEPA as set forth in 42 U.S.C. §7603. (40 CFR 70.6(f)(3)(i); MDAQMD Rule 1203(G)(3)(a)).
14. The Permit Shield set forth above in conditions 11 and 12 of Part IV shall not be construed to limit liability for violations which occurred prior to the issuance of this Federal Operating Permit. (40 CFR 70.6(f)(3)(ii); MDAQMD Rule 1203(G)(3)(b)).
15. The Permit Shield set forth above in conditions 11 and 12 of Part IV shall not be construed to alter any Applicable Requirement Contained in the Acid Rain Program. (40 CFR 70.6(f)(3)(iii); MDAQMD Rule 1203(G)(3)(c)).

16. The Permit Shield set forth above in conditions 11 and 12 of Part IV shall not be construed to limit the ability of USEPA or the MDAQMD to obtain information pursuant to other provisions of law including but not limited to 42 U.S.C. §7414. (40 CFR 70.6(f)(3)(iv); MDAQMD Rule 1203(G)(3)(d)).
17. The Permit Shield set forth above in conditions 11 and 12 of Part IV shall not be construed to apply to emissions trading pursuant to provisions contained in an applicable State Implementation Plan. (40 CFR 70.4(b)(12)(ii)(B); MDAQMD Rule 1203(G)(3)(e)).
18. The Permit Shield set forth above in conditions 11 and 12 of Part IV shall not be construed to apply to changes made which are not expressly allowed by this Federal Operating Permit. (40 CFR 70.4(b)(14)(iii); MDAQMD Rule 1203(G)(3)(f)).
19. The Permit Shield set forth above in conditions 11 and 12 of Part IV shall not be construed to apply to changes made pursuant to the Significant Permit Modification provisions until such changes are included in this Federal Operating Permit. (40 CFR 70.5(a)(1)(ii), 70.7(e)(2)(vi); MDAQMD Rule 1203(G)(3)(g)).
20. If Alternative Operating Scenario(s) are detailed in Part VII of this Federal Operating Permit then the holder of this Federal Operating Permit shall maintain a contemporaneous log detailing the changes between each Alternative Operating Scenario. (40 CFR 70.5(c)(7), 70.6(a)(9)(i); MDAQMD Rule 1203(E)(1)(a)(i)(e)).

PART V GENERAL COMPLIANCE CONDITIONS

A. STANDARD COMPLIANCE CONDITIONS:

1. The holder of this Federal Operating Permit shall allow an authorized representative of the MDAQMD to enter upon the permit holder's premises at reasonable times, with or without notice. (40 CFR 70.6(c)(2)(i); MDAQMD Rule 1203(D)(1)(g)(i)).
2. The holder of this Federal Operating Permit shall allow an authorized representative of the MDAQMD to have access to and copy any records that must be kept under condition(s) of this Federal Operating Permit. (40 CFR 70.6(c)(2)(ii); MDAQMD Rule 1203(D)(1)(g)(ii)).
3. The holder of this Federal Operating Permit shall allow an authorized representative of the MDAQMD to inspect any equipment, practice or operation contained in or required under this Federal Operating Permit. (40 CFR 70.6(c)(2)(iii); MDAQMD Rule 1203(D)(1)(g)(iii)).
4. The holder of this Federal Operating Permit shall allow an authorized representative of the MDAQMD to sample and/or otherwise monitor substances or parameters for the purpose of assuring compliance with this Federal Operating Permit or with any Applicable Requirement. (40 CFR 70.6(c)(2)(iv); MDAQMD Rule 1203(D)(1)(g)(iv)).
5. If the holder of this Federal Operating Permit is operating pursuant to a Schedule of Compliance contained herein then the holder of this Federal Operating Permit shall submit a progress report regarding that Schedule of Compliance on a semiannual basis unless a shorter time is set forth in the Schedule of Compliance itself. (40 CFR 70.6(c)(5)(i); MDAQMD Rule 1203(D)(1)(g)(vi)).
6. The holder of this Federal Operating Permit shall submit Compliance Certifications on an annual basis. (40 CFR 70.6(c)(5)(i); MDAQMD Rule 1203(D)(1)(g)(vii)).
7. The holder of this Federal Operating Permit shall include in any Compliance Certification methods used for monitoring such compliance. (40 CFR 70.6(c)(5)(ii); MDAQMD Rule 1203(D)(1)(g)(viii)).
8. The holder of this Federal Operating Permit when submitting any Compliance Certification(s) to the MDAQMD, contemporaneously submit such Compliance Certification(s) to USEPA. (40 CFR 70.6(5)(iii); MDAQMD Rule 1203(D)(g)(ix)).

B. SPECIFIC COMPLIANCE CONDITIONS:

[Please include any special compliance conditions which are required by any Applicable Requirement. These commonly include special submissions, special reports or other documents required by Hazardous Air Pollutant regulations, Title IV - Acid Rain Provisions, and Title III - Air Toxics. If there are no conditions please indicate "No conditions necessary at this time."]

PART VI COMPLIANCE PLAN

[Please insert the compliance plan provided as part of the application here. Remember, Compliance Plans must have all the elements set forth in MDAQMD Rule 1201(I).]

PART VII OPERATIONAL FLEXIBILITY

A. ALTERNATIVE OPERATING SCENARIO(S):

[Please provide for each scenario:

- 1. A short description of the scenario.*
- 2. A list of any equipment or process which is different from that described in Part II.*
- 3. For each piece of equipment or process which is different list any differences in Applicable Requirements and/or conditions implementing those requirements.]*

B. EMISSIONS TRADING UNDER A FACILITY EMISSIONS LIMIT:

[If a facility has requested this option, please consult with the Legal Department for aid in drafting enforceable conditions. If a facility has not requested this option please put the following condition in this spot.

- 1. The holder of this Federal Operating Permit shall not engage in emissions trading under a voluntary facility-wide emissions limit unless and until a modification of this permit has been made to allow such trading. (40 CFR 70.4(b)(12)(iii); MDAQMD Rule 1203(E)(1)(b)).]*